

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

BYRON SHANE CHUBBUCK,
Plaintiff

v.

UNITED STATES OF AMERICA,
Defendant

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:
: CIVIL NO. 1:14-CV-01847
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:
:
:

O R D E R

AND NOW, this 27th day of October, 2015, upon consideration¹ of Magistrate Judge Saporito's Report and Recommendation ("R&R"), IT IS ORDERED that:

(1) Judge Saportio's R&R (Doc. 34) is ADOPTED.²

(2) Plaintiff's complaint (Doc. 1) is DISMISSED without prejudice.

(3) Leave to amend is DENIED as futile.

(4) The Government's motion (Doc. 17) for summary judgment is DENIED as moot.

(5) The Clerk of Court shall CLOSE this case.

/s/ William W. Caldwell
William W. Caldwell
United States District Judge

¹ The Court must conduct a *de novo* review of the contested portions of an R&R, *Sample v. Diecks*, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989) (citing 28 U.S.C. § 636(b)(1)(c)), provided the objections are both timely and specific, *Goney v. Clark*, 749 F.2d 5, 6–7 (3d Cir. 1984). The Court, at minimum, should review uncontested portions of an R&R for clear error or manifest injustice. See, e.g., *Cruz v. Chater*, 990 F.Supp. 375, 376–77 (M.D. Pa. 1998).

² In a recent filing, (Doc. 35), plaintiff complains about Judge Saporito's footnote, (Doc. 34, at 1 n. 1), that has no bearing on the proposed recommendations or pertinent contents of the report; therefore, to the extent plaintiff's filing can be construed as an objection, it is overruled as inconsequential.